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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/532,174	04/21/2005	Michael Finkenzeller	2002P17649WOUS	6182

7590 12/09/2008  
Siemens Corporation  
Intellectual Property Department  
170 Wood Avenue South  
Iselin, NJ 08830

EXAMINER
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MCLEOD, MARSHALL M

ART UNIT	PAPER NUMBER
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2457

MAIL DATE	DELIVERY MODE
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12/09/2008

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/532,174	<b>Applicant(s)</b> FINKENZELLER ET AL.	
	<b>Examiner</b> MARSHALL MCLEOD	<b>Art Unit</b> 2457	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 10 September 2008.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 28-46 and 48-55 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 28-46 and 48-55 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                     | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

## **DETAILED ACTION**

### ***Response to Amendment***

1. This Office action has been issued in response to the amendment filed 10 September 2008. Claims 8-46 and 48-55 are pending and claim 47 has been cancelled.

### ***Priority***

2. Examiner acknowledges applicant's claim for foreign priority based on German application 10249867.9 filed on 25 October 2002.

### ***Claim Rejections - 35 USC § 112***

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. **Claims 28 and 53 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.**

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5. With respect to claim 28 (line 6), “. . . stored in the telecommunication terminal and/or in the additional . . .” is indefinite. The **and/or** statement within the claim does not make it clear whether applicants’ intend for the information to be stored solely in the telecommunication terminal or solely in the additional terminal or stored in both terminals at the same time.

Appropriate clarification is required is required.

6. With respect to claim 53 (line 8), “. . . stored in the telecommunication terminal **and/or** in the additional . . .” is indefinite. The **and/or** statement within the claim does not make it clear whether applicants’ intend for the information to be stored solely in the telecommunication terminal or solely in the additional terminal or stored in both terminals at the same time.

Appropriate clarification is required is required.

7. With respect to claim 28 (lines 9-11), “. . . **in the event** the telecommunication terminal comprises a mobile telecommunication terminal, the step of analyzing comprises analyzing network access information for networks within a defined area about the telecommunication terminal . . .” is indefinite. The **in the event** statement is indefinite because it does not discuss the alternative if there is no mobile terminal or there is a mobile terminal and a regular terminal.

Appropriate clarification is required is required.

8. With respect to claim 53 (lines 11-13), “. . . **in the event** the telecommunication terminal comprises a mobile telecommunication terminal, the step of analyzing comprises analyzing network access information for networks within a defined area about the telecommunication

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terminal . . ." is indefinite. The **in the event** statement is indefinite because it does not discuss the alternative if there is no mobile terminal or there is a mobile terminal and a regular terminal. Appropriate clarification is required is required.

***Claim Rejections - 35 USC § 102***

9. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

10. **Claims 28-34, 41-43, 46, 48-55 are rejected under 35 U.S.C. 102(b) as being anticipated by Eneborg et al. (WIPO Pub. No W/O 0135585 A), hereinafter Eneborg.**

11. With respect to claim 28, Eneborg discloses a method for selecting network access to one or more data networks from a telecommunication terminal (Page 1, lines 5-8), comprising: analyzing network access information which has been determined by the telecommunication terminal and/or an additional telecommunication terminal during network connections via different network accesses (Page 5, lines 8-12), wherein the network access information has been stored in the telecommunication terminal and/or in the additional telecommunication terminal (Page 10, lines 3-5), and wherein the network access information stored in the additional telecommunication terminal is accessible to the telecommunication terminal via a data exchange network (Abstract, lines 1-6), and in the event the telecommunication terminal comprises a mobile telecommunication terminal, the step of analyzing comprises analyzing network access

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information for networks within a defined area about the telecommunication terminal (Page 12, lines 1-10); selecting a network access on the basis of the analyzed network access information (Page 5, lines 20-23).

responsive to one or both of user-selected parameters and objective parameters, the selected network access for providing access to an Internet node, the telecommunication terminal including a network interface for use with the selected network access (Abstract, lines 1-6); and selecting an Internet service provider to establish a connection from the access node to the Internet (Page 1, Background, lines 9-15).

12. With respect to claim 29, Eneborg discloses wherein selecting a network access includes selecting one or more network access providers together with the network interface which the telecommunication terminal needs for establishing a connection with the network access providers (Page 11, lines 22-26).

13. With respect to claim 30, Eneborg discloses wherein the network access information includes information concerning the quality of the network accesses and/or the costs incurred for network connections via the said network accesses (Page 4, lines 25-28; Page 5, lines 1-3).

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14. With respect to claim 31, Eneborg discloses wherein the information about the quality of network accesses includes information on the services available from said network accesses and/or the connection quality of said network accesses (Page 9, lines 8-13).

15. With respect to claim 32, Eneborg discloses wherein the connection quality information includes information about the frequency of cut-outs and interruptions, and/or bandwidths, and/or data losses, and/or data delays, during network connections via the said network accesses (Page 5, lines 10-20).

16. With respect to claim 33, Eneborg discloses wherein adjustable, parameters are used to analyze the network access information (Page 13, lines 23-28; Page 14, line 1).

17. With respect to claim 34, Eneborg discloses wherein the parameters include user-specific and/or application-specific requirements regarding network access quality (Page 9, lines 17-23).

18. With respect to claim 41, Eneborg discloses wherein the network access information is updated at regular intervals (Page 10, lines 3-7).

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19. With respect to claim 42, Eneborg discloses wherein the network access information includes user-specific comments (Page 10, lines 3-7).

20. With respect to claim 43, Eneborg discloses wherein the network access information is stored on a central computer and/or the telecommunication terminal and/or the additional telecommunication terminal (Page 9, lines 14-21).

21. With respect to claim 46, Eneborg discloses wherein one or more data networks, for which a network access is selected, is or are the Internet and/or a fixed telecommunications network and/or a mobile radio communications network (Page 7, lines 12-20).

22. With respect to claim 48, Eneborg discloses wherein the data exchange connection has no intermediate devices (Page 7, lines 20-24).

23. With respect to claim 49, Eneborg discloses wherein the connection for exchanging data takes place via wireless LAN and/or via an ad hoc network and/or via Bluetooth interfaces and/or via infrared interfaces (Page 1, lines 9-17).



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24. With respect to claim 50, Eneborg discloses wherein the selected network access is a network access which takes place via the additional telecommunication terminal and wherein data from the selected network access can be transmitted to the telecommunication terminal via the data exchange connection (Page 8, lines 21-28).

25. With respect to claim 51, Eneborg discloses wherein the telecommunication terminal and/or the additional telecommunication terminal are mobile radio terminals and/or computers (Page 7, lines 12-20).

26. With respect to claim 52, Eneborg discloses wherein the network access information has been determined by measurements carried out only on the telecommunication terminal and/or the additional telecommunication terminal (Page 3, lines 15-18).

27. With respect to claim 53, Eneborg discloses a device for selecting network access to one or more data networks via a telecommunication terminal wherein the device can be used to perform a method for selecting network access to one or more data networks by a telecommunication terminal (Page 1, lines 5-8), the method comprising: analyzing network access information which has been determined by the telecommunication terminal and/or an additional telecommunication terminals during network connections via different network accesses (Page 5, lines 8-12), wherein the network access information has been stored in the

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telecommunication terminal and/or in the additional telecommunication terminal (Page 10, lines 3-5), and wherein the network access information stored in the additional telecommunication terminal is accessible to the telecommunication terminal via a data exchange network (Abstract, lines 1-6), and in the event the telecommunication terminal comprises a mobile telecommunication terminal, the step of analyzing comprises analyzing network access information for networks within a defined area about the telecommunication terminal (Page 12, lines 1-10); selecting a network access on the basis of the analyzed network access information (Page 5, lines 20-23).

responsive to one or both of user-selected parameters and objective parameters, the selected network access for providing access to an Internet node, the telecommunication terminal including a network interface for use with the selected network access (Abstract, lines 1-6); and selecting an Internet service provider to establish a connection from the access node to the Internet (Page 1, Background, lines 9-15)

28. With respect to claim 54, Eneborg discloses a mechanism for analyzing network access information which has been determined by the telecommunication terminal and/or the additional telecommunication terminals during network connections via different network accesses (Page 5, lines 8-12); and a mechanism for selecting a network access on the basis of the analyzed network access information (Page 5, lines 20-23).

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29. With respect to claim 55, Eneborg discloses wherein the device is integrated into a telecommunication terminal (Page 1, lines 5-8).

***Claim Rejections - 35 USC § 103***

30. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

31. **Claims 35-40 are rejected under 35 U.S.C. 103(a) as being unpatentable over Eneborg, in view of Muller et al. (Patent No US 6356541 B1), hereinafter Muller.**

32. With respect to claim 35 the claim is rejected for the same reasons as claim 33 above. In addition, Eneborg does not disclose wherein the parameters include information regarding the location of the telecommunication terminal. However, Muller discloses wherein the parameters include information regarding the location of the telecommunication terminal (Column 1, lines 65-67 continued through to Column 2, lines 1-3).

It would have been obvious to a person having ordinary skill in the art at the time of the invention to modify the teachings Eneborg with the teachings Muller in order to allow a network administrator or technician to manage and maintain the many terminals in a network.

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33. With respect to claim 36 the claim is rejected for the same reasons as claim 35 above. In addition, Eneborg does not disclose wherein a location of the telecommunication terminal is determined automatically. However, Muller discloses wherein a location of the telecommunication terminal is determined automatically (Column 9, lines 5-23).

It would have been obvious to a person having ordinary skill in the art at the time of the invention to modify the teachings Eneborg with the teachings Muller in order to allow a network administrator or technician to manage and maintain the many terminals in a network.

34. With respect to claim 37 the claim is rejected for the same reasons as claim 35 above. In addition, Eneborg does not disclose wherein a location of the telecommunication terminal is determined by the user of the said telecommunication terminal. However, Muller discloses wherein a location of the telecommunication terminal is determined by the user of the said telecommunication terminal (Column 1, lines 65-67, continued through to Column 2, lines 1-6).

It would have been obvious to a person having ordinary skill in the art at the time of the invention to modify the teachings Eneborg with the teachings Muller in order to allow a network administrator or user to maintain the terminal that they are using in the network.

35. With respect to claim 38 the claim is rejected for the same reasons as claim 35 above. In addition, Eneborg does not disclose that the location of the telecommunication terminal is determined by inquiring from a network access provider. However, Muller discloses that the

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location of the telecommunication terminal is determined by inquiring from a network access provider (Column 1, lines 65-67, continued through to Column 2, lines 1-6).

It would have been obvious to a person having ordinary skill in the art at the time of the invention to modify the teachings Eneborg with the teachings Muller in order to allow a network administrator or technician to manage and maintain the many terminals in a network.

36. With respect to claim 39 the claim is rejected for the same reasons as claim 28 above. In addition, Eneborg does not disclose wherein only network access information which has been determined by the telecommunication terminal and/or by additional telecommunication terminals in a predefined area surrounding the location of the telecommunication terminal is analyzed. However, Muller discloses wherein only network access information which has been determined by the telecommunication terminal and/or by additional telecommunication terminals in a predefined area surrounding the location of the telecommunication terminal is analyzed (Column 8, line 66, continued through to Column 9, lines 5-23).

It would have been obvious to a person having ordinary skill in the art at the time of the invention to modify the teachings Eneborg with the teachings Muller in order to allow a network administrator or technician to manage and maintain the many terminals in a network.

37. With respect to claim 40 the claim is rejected for the same reasons as claim 28 above. In addition, Eneborg does not disclose wherein network access information is made available to

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network service providers and/or network access providers. However, Muller discloses wherein network access information is made available to network service providers and/or network access providers (Column 6, lines 21-28).

It would have been obvious to a person having ordinary skill in the art at the time of the invention to modify the teachings Eneborg with the teachings Muller in order to allow a network administrator or technician to manage and maintain the many terminals in a network.

**38. Claims 44-45 are rejected under 35 U.S.C. 103(a) as being unpatentable over Eneborg in view of Tayloe et al. (Patent No US 5,826,188 A), hereinafter Tayloe.**

39. With respect to claim 44, the claim is rejected for the same reasons as claim 28 above. In addition Eneborg does not disclose wherein information about the location which the telecommunication terminal needs for the selected network access is determined from the selected network access using a service provided by a network access provider. However, Tayloe discloses wherein information about the location which the telecommunication terminal needs for the selected network access is determined from the selected network access using a service provided by a network access provider (Column 4, lines 1-35; i.e. cell network reads on service provided by a network access provider).

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It would have been obvious to a person having ordinary skill in the art at the time of the invention to modify the teachings Eneborg with the teachings Tayloe in order to allow a network administrator or technician to manage and maintain the many terminals in a network.

40. With respect to claim 45, the claim is rejected for the same reasons as claim 44 above. In addition Eneborg does not disclose wherein a navigation system determines the way from the present location of the telecommunication terminal to the location which the telecommunication terminal needs for the selected network access. However, Tayloe discloses wherein a navigation system determines the way from the present location of the telecommunication terminal to the location which the telecommunication terminal needs for the selected network access (Column 4, lines 1-12).

It would have been obvious to a person having ordinary skill in the art at the time of the invention to modify the teachings Eneborg with the teachings Tayloe in order to allow a network administrator or technician to manage and maintain the many terminals in a network.

### ***Response to Arguments***

41. Applicant's arguments with respect to claims 8-46 and 48-55 have been considered but are moot in view of the new ground(s) of rejection.

### ***Conclusion***

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Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a).

Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to MARSHALL MCLEOD whose telephone number is (571)270-3808. The examiner can normally be reached on Monday - Thursday 6:30 a.m-4:00 p.m..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ario Etienne can be reached on (571) 272-4001. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.



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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Marshall McLeod

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12/3/2008

/ARIO ETIENNE/

Supervisory Patent Examiner, Art Unit 2457